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# Informal tripartite consultations on the working methods of the Committee on the Application of Standards (4 November 2017)

## Background note

### Introduction

1. Since June 2006, informal tripartite consultations on the working methods of the Conference Committee on the Application of Standards (CAS) have taken place 11 times up to 2011. At its 322nd Session (October–November 2014), the Governing Body decided to relaunch the informal tripartite consultations to prepare recommendations to the 323rd Session of the Governing Body (March 2015), in the context of decisions taken by the Governing Body concerning the Standards Initiative.<sup>1</sup> The most recent informal tripartite consultations were held in November 2016.<sup>2</sup>
2. It should be recalled that the outcome of these informal tripartite consultations and the subsequent adjustments made to the working methods of the CAS have been reflected in document D.1 adopted each year by the CAS, entitled “Work of the Committee”.<sup>3</sup>
3. During the last informal tripartite consultations, the functioning of the CAS in June 2016 was reviewed, including measures that were implemented on an experimental basis. More specifically, the meeting discussed possible suggestions for improvement to the functioning of the CAS; the preparation, adoption and follow-up of conclusions; and the discussion of the General Survey. The meeting also addressed the issue of the participation in these informal tripartite consultations.
4. This meeting follows up on the informal tripartite consultations of the November 2016 meeting and on the subsequent discussions held in the CAS<sup>4</sup> and in the Governing Body at the 106th Session of the International Labour Conference (ILC) (June 2017).<sup>5</sup> This background note examines the issues that might be considered in order to ensure the continued effective functioning of the CAS:
  - review of the functioning of the CAS in June 2017 and possible further suggestions for improvement (section I);
  - the preparation, adoption and follow-up of conclusions (section II);

<sup>1</sup> [GB.322/PV](#), para. 209(3).

<sup>2</sup> Brief report of the 5 November 2016 meeting of the informal tripartite Working Group, reproduced in Annex 1.

<sup>3</sup> Document D.1 – Work of the Committee – adopted in 2017 (*Provisional Record No. 15-1*, ILC, 2017, Part I, p. 42), reproduced in Annex 2 of this document.

<sup>4</sup> *Provisional Record No. 15-1*, ILC, 2017, Part I, in particular paras 26–53, 140 and 163–175.

<sup>5</sup> [GB.330/PV/Draft](#).

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- the discussion of the General Survey (section III);
  - the discussion of cases of serious failure by member States to respect their reporting obligations (section IV); and
  - the issue of the participation in these informal tripartite consultations (section V).

## **I. Review of the functioning of the CAS and possible further suggestions for improvement**

5. This section addresses the review of the functioning of the CAS in June 2017 and possible adjustments to ensure the continued effective functioning of the CAS in June 2018.
6. The analyses contained in the paragraphs below are based on the general assessment provided by the Governing Body at its 330th Session (June 2017) and conclusions drawn by the Office after consultations with the ILC secretariats.<sup>6</sup>
7. Following the June 2017 CAS, the three groups agreed that the effective implementation of the informal tripartite consultations on the working methods of the CAS had produced excellent results, in particular as regards time management and the consolidation of previously introduced tools: more dynamic use of the web page of the Committee; a programme displaying the list of speakers on screens; time-limits for the different categories of interventions; the electronic submissions of corrections to the minutes; tools to facilitate the communication between the Employer and Worker Vice-Chairpersons; and the production of the minutes and reports in a “patchwork” trilingual format. Specific mention has also been made of the sense of commitment and responsibility that prevailed during the discussion that led to a timely agreement on the list of cases and in the preparation of the conclusions.
8. Moreover, at the 330th Session of the Governing Body (June 2017),<sup>7</sup> the Employer Vice-Chairperson indicated that the CAS discussions had strengthened its value and the Employers and Workers had achieved timely agreement on the list of cases. There was growing ownership of the way in which conclusions were drafted and greater clarity on areas of consensus. Constituents remained free to express their different views, with an eye on the guidance of the Committee of Experts on the Application of Conventions and Recommendations.
9. Speaking on behalf of the Africa group, a Government representative of Ethiopia said that his group wished to reiterate its concern with regard to the listing of countries appearing before the CAS, specifically the number of African countries, and the fact that the complaints did not take into account measures recently implemented by members of the group. He hoped that those concerns would be considered in the future.
10. A Government representative of Canada, speaking on behalf of the group of industrialized market economy countries (IMEC), indicated that he was particularly pleased with the work of the CAS, which had again fully discharged its duties in 2017 and effectively implemented many of the recommendations of the informal tripartite consultations on its working methods. Strong time management and the adoption of conclusions in every single case

<sup>6</sup> [GB.331/WP/GBC/2/1](#).

<sup>7</sup> [GB.330/PV/Draft](#).

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deserved explicit mention. The use of an electronic board had set clear time limits, let participants know the number and names of speakers, and brought a sense of order.

11. Further efficiencies or improvements could be realized. For instance, IMEC was of the view that the final list of cases in the CAS came too late to allow appropriate consultations with capitals.
12. Based on the experience of the work of the CAS in 2017, the meeting may wish to consider the following elements: the establishment of the list of cases; any possible improvements to time management, taking into account the experiences of the CAS in 2017 and the shorter Conference; and the modalities for the adoption of the CAS report.

## A. Establishment of the list of cases

13. The modalities for the establishment of the list of cases, as revised in 2015, allowed for the timely adoption of that list, as follows:

### *Preliminary list*

The preliminary list of cases should be available no less than 30 days before the opening of the ILC.

### *Final list*

The final list should be agreed upon by the Employer and Worker spokespersons on the Friday before the opening of the ILC and should be made publicly available and adopted **no later than the second sitting** of the CAS. The discussion of the individual cases would begin with double-footnoted cases.

14. Information concerning criteria for the determination of the list is contained in document D.1, Part VI.<sup>8</sup>
15. During the last meeting of the informal tripartite Working Group in November 2016, the meeting discussed the establishment of the preliminary and final lists of cases.
16. Acknowledging that the preliminary and final lists of cases were communicated on time, some government representatives asked whether a lengthier advance notice of the lists could be provided. In this regard, a Government representative of Brazil asked whether it would be possible to give more advance notice with respect to the final list. One option that was proposed to allow for a longer notice period was for the CAS to discuss cases involving countries closest to Geneva in the earlier days of the Conference.
17. During the opening statements of the 2017 CAS, a Government representative of Malta, speaking on behalf of the European Union (EU) and its Member States, the candidate countries, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Albania, and potential candidate Bosnia and Herzegovina, as well as the Republic of Moldova, while not questioning the process for the selection of individual cases, thought that the discussion of cases already dealt with under the complaint procedure established under article 26 of the ILO Constitution should be avoided as much as possible. Moreover, he added that it could be particularly relevant to address related Conventions in the same case; in that regard, the Committee of Experts had innovated with such an approach this year. Lastly, he pointed out

<sup>8</sup> Document D.1 is reproduced in Annex 2.

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that adopting the final list of cases after the Conference had already started remained very challenging for governments in terms of preparation.

18. During the closing remarks in the 2017 CAS, a Government representative of Ghana, speaking on behalf of the Africa group, expressed satisfaction with the constructive nature of the Committee's discussion. However, he wished to raise two points. First, the criteria for selecting countries to appear before the Committee presented shortcomings and gave rise to concerns regarding the transparency of the selection process. Countries from the Africa region, including four countries from North Africa, had appeared eight times before the Committee during the current session, despite the fact that, as acknowledged by the Committee, some of them were facing very difficult circumstances. While the Africa group was not opposed to the exclusion of governments in drawing up the list, the selection criteria should be made known to all ILO constituents. The Africa group called for transparency in the process of preparing the list of individual cases and looked forward to receiving information on how countries were placed on the list.
19. Second, the Africa group raised concerns that the Committee's discussion focused only on cases of non-compliance and suggested that cases of progress be included on the list. To advocate for social justice, the Committee should take the time to discuss positive cases, in order to share best practices and give encouragement to draw positive lessons. He expressed the hope and expectation that the number of cases of alleged violations on the list of 24 cases could be reduced and a few best practices added, while also discussing more cases on technical Conventions.
20. During the closing remarks in the 2017 CAS, the Employer members indicated that the list of 24 cases had been negotiated in good faith and delivered in time, ensuring a threefold balance among the regions, as regards the levels of development of member States, and between fundamental, priority and technical Conventions. They believed that the Committee should also consider cases of progress so as to share best practices, as well as additional cases on technical Conventions.
21. The Worker members said that the list of 24 individual cases adopted by the Committee at the start of its work was concerned with examples of serious failure to fulfil obligations relating to fundamental, governance and technical Conventions. The Worker members considered that the list did not contain any case of progress. Without ruling out the possibility of noting progress during discussions, the presence of a country on the list generally meant that there was a serious failure regarding implementation by that country of the Convention under examination. Only three cases had dealt with technical Conventions this year. Their selection was sometimes made difficult by the shortness of the Committee of Experts' comments on them. The Worker members encouraged governments to supply more information on these technical Conventions in their reports.
22. In response to the query by a number of governments concerning the process for drawing up the list of individual cases, the Worker members recalled the explanations contained in a dedicated working document of the Committee and also the informal information meeting for briefing governments on this matter which took place immediately after the adoption of the final list of cases in the presence of the Vice-Chairpersons of the Committee.

## **B. Time management**

23. During the March and November 2016 meetings of the informal tripartite Working Group, possible improvements to time management were discussed. The meeting agreed that strict time management should be ensured.

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**24.** Relevant information on time management is contained in Part IX of document D.1 and reproduced below: <sup>9</sup>

- Every effort will be made so that sessions start on time and the schedule is respected.
- Maximum speaking time during the examination of individual cases will be as follows:
  - fifteen minutes for the government whose case is being discussed, as well as the spokespersons of the Workers’ and the Employers’ groups;
  - ten minutes for the Employer and Worker members, respectively, from the country concerned to be divided between the different speakers of each group;
  - ten minutes for Government groups;
  - five minutes for the other members;
  - concluding remarks are limited to ten minutes for the government whose case is being discussed, as well as spokespersons of the Workers’ and the Employers’ groups.
- Maximum speaking time will also apply to the discussion of the General Survey, as follows:
  - fifteen minutes for the spokespersons of the Workers’ and the Employers’ groups;
  - ten minutes for Government groups;
  - five minutes for the other members;
  - concluding remarks are limited to ten minutes for spokespersons of the Workers’ and the Employers’ groups.
- However, the Chairperson, in consultation with the other Officers of the Committee, could decide on reduced time limits where the situation of a case would warrant it, for instance, where there was a very long list of speakers.
- These time limits will be announced by the Chairperson at the beginning of each sitting and will be strictly enforced.
- During interventions, a screen located behind the Chairperson and visible by all speakers will indicate the remaining time available to speakers. Once the maximum speaking time has been reached, the speaker will be interrupted.
- The list of speakers will be visible on screens in the room. Early registration on that list of delegates intending to take the floor is encouraged.
- In view of the above limits on speaking time, governments whose case is to be discussed are invited to complete the information provided, where appropriate, by a written document, not longer than five pages, to be submitted to the Office at least two days before the discussion of the case.

**25.** The discussion on time management during the last informal tripartite consultations in November 2016 suggested that the reduction of speaking time limits could apply by taking

<sup>9</sup> Document D.1 is reproduced in Annex 2.

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into account the number of speakers of a particular group. For example, if a given group only had four or five speakers mentioned on the list of speakers with respect to a case being discussed, those speakers would not see their speaking time reduced. Speaking time would therefore only be reduced for the following speakers of that same group.

26. It was also recalled during the last meeting that the CAS needed simple rules when dealing with the list of speakers.
27. Moreover, the last meeting also discussed the order in which speakers take the floor when discussing a case. In this regard, some participants proposed to have government representatives speak after the social partners, as closing remarks.
28. The meeting considered that further reflection on this point was needed.
29. During the closing remarks in the 2017 CAS, the Employer members indicated that the technical innovations in the work of the Committee had rendered the use of its time even more efficient and constituted evidence of the value and contributions of the informal tripartite consultations. Additional opportunities for informal tripartite consultations would continue to improve the efficiency and transparency of the Committee's work and this would be welcomed.

### **C. Modalities for the adoption of its report by the CAS**

30. Relevant information on this point is contained in Part VIII of document D.1.<sup>10</sup>
31. Following the informal tripartite consultations held in November 2016, it was agreed that the summary records (PVs) of the sittings would once again be issued in a trilingual "patchwork" version (English, French and Spanish). Each intervention would only be reported in the language in which it was delivered, or in the language chosen by the speaker when taking the floor. The main innovation in 2017 was the submission for adoption by the Conference plenary of the Committee's final report, and particularly Part II on the examination of individual cases, in the same "patchwork" version.
32. During the November 2016 meeting, the Office had indicated that the fully translated versions of the CAS report would be made available online ten days after the end of the Conference. The translated versions of the report were in fact published online within the said timeline.
33. With regard to the CAS dedicated web page, all documents of the CAS were to be made available electronically on the Committee's dedicated web page, including the draft minutes of sittings. This innovation aimed at implementing the "paper smart" policy introduced by the Office under the current programme and budget.
34. During their opening statement at the 2017 CAS, the Employer members indicated that the dedicated CAS web page should be further expanded, for instance by adding information concerning the tripartite deliberations, including written submissions made by constituents.

<sup>10</sup> Document D.1 is reproduced in Annex 2.

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### ***Possible points for discussion***

35. The meeting may wish to consider the following points:

- (a) the establishment of the list of cases (paragraphs 13–22);
- (b) any possible improvements to time management taking into account the experiences of the CAS in 2017 and the shorter Conference (paragraphs 23–29);
- (c) the modalities for the adoption of the CAS report (paragraphs 30–34);

## **II. Preparation, adoption and follow-up of conclusions**

### **A. Preparation and adoption of conclusions**

36. During the last meeting of the informal tripartite Working Group, the meeting considered that the same modalities as those applied in 2015 for the preparation of conclusions should be applied in 2016. It also agreed that better use of technology would facilitate the preparation of conclusions.
37. During the closing remarks in the 2017 CAS, a Government representative of Spain indicated that the question of whether the conclusions of the Committee on the individual cases should be adopted without the Government concerned having been heard beforehand could be a subject of discussion during the informal tripartite consultations on the Committee's working methods.
38. A Government representative of Brazil supported the statement of the Government representative of Spain and indicated that the purpose of the consultations on this matter should be to enable governments to be aware of the conclusions that concerned them, at least before the conclusions were adopted by the Committee.
39. A Government representative of the Bolivarian Republic of Venezuela indicated that this year was the first time that the floor had not been given to the government concerned immediately after the adoption of the conclusions relating to it. Giving the floor only after all the conclusions had been read amounted to not granting the right of reply. All the issues relating to the functioning of the Committee should be discussed as a matter of urgency during the informal tripartite consultations on the Committee's working methods.
40. A Government representative of Malta indicated that he understood both the concerns of the Government members who had spoken and the position of the Chairperson of the Committee, who had to organize the discussion. These concerns should be discussed during the informal tripartite consultations.

### **B. Follow-up of conclusions**

41. During the last informal tripartite consultations in November 2016, the Office prepared a table on the implementation of the CAS conclusions. Following the discussion, it was decided to publish the table on the dedicated web page of the CAS on 1 April 2017 and to regularly update it prior to the commencement of the Conference.

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42. The table on the “Follow-up to the Conclusions of the Committee on the Application of Standards (2015–16)” was made available online.<sup>11</sup>
43. During their opening statement at the 2017 CAS, the Employer members indicated that it was expected that mission reports regarding the conclusions of the CAS, or a summary with the non-confidential concrete results of the mission, be published in NORMLEX.
44. The Worker members endorsed the Employer members’ proposal to publish reports of direct contacts missions carried out at the request of the CAS since that would be a source of important information in assessing progress made in cases that had been discussed by the Committee.
45. During the closing remarks in the 2017 CAS, the Employer members emphasized that the follow-up to the Committee’s conclusions was a key facet of tripartite governance within the supervisory system. The Office’s technical assistance or follow-up missions, direct contacts missions and high-level tripartite missions needed to focus exclusively on areas of consensus and have as their mandate the Committee’s conclusions, which should not be enlarged unilaterally.
46. The Employer members also encouraged the Office to include the ILO workers’ and employers’ specialists in the preparation and implementation of the missions, in line with the ILO’s tripartite structure and mandate, and with a view to a balanced follow-up to the Committee’s conclusions. The Office should also ensure that the most representative employers’ and workers’ organizations were prepared to contribute to the success of the mission and its follow-up, and that mission reports were made available after a reasonable period of time. The goal of the supervisory system was to guide member States on key matters relating to the governance of labour and social policy, thus enabling them to promote adequate protection of workers and full employment through sustainable enterprises.

### **Possible points for discussion**

47. The meeting may wish to consider the following points:
- (a) possible further improvements in the preparation and adoption of conclusions (paragraphs 36–40); and
  - (b) possible further improvements in the mechanism to systematically review the implementation of conclusions adopted (paragraphs 41–46).

## **III. Discussion of the General Survey**

48. The paragraphs below are an extract from the Governing Body document *The Standards Initiative: Implementing the workplan for strengthening the supervisory system – Progress report*,<sup>12</sup> which invites the Conference Committee on the Application of Standards, through the informal tripartite consultations on its working methods, to consider measures to enhance its discussion of the General Survey.

<sup>11</sup> [http://www.ilo.org/ilc/ILCSessions/106/committees/standards/WCMS\\_549561/lang--en/index.htm](http://www.ilo.org/ilc/ILCSessions/106/committees/standards/WCMS_549561/lang--en/index.htm).

<sup>12</sup> GB.331/INS/5.

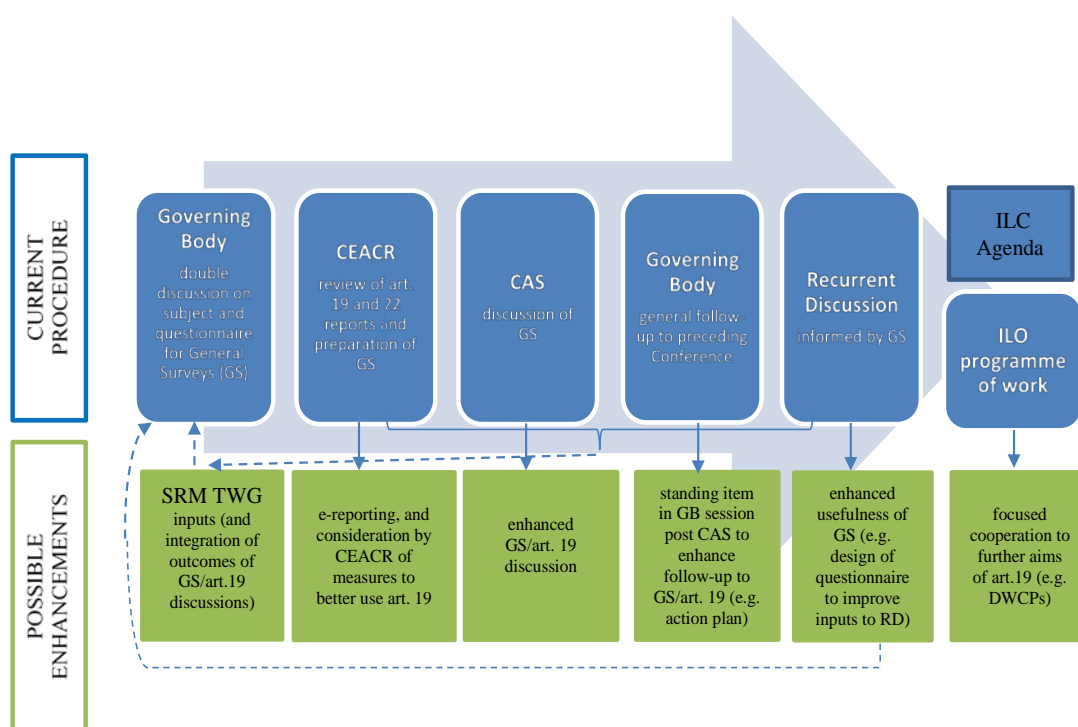
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49. Many constituents emphasized during the recent informal consultations that insufficient time and attention is devoted to the discussion of General Surveys during the CAS. Furthermore, the Conference has explicitly requested the ILO to “adopt modalities to ensure that General Surveys and the related discussion by the Committee on the Application of Standards contribute to the recurrent discussions as appropriate”.<sup>13</sup> With a view to enhancing its role in giving effect to the objectives of article 19, paragraphs 5(e) and 6(d), consistent with the expansion of its mandate as a consequence of the introduction of these provisions, the CAS could explore other ways of improving its discussion of General Surveys, including through recourse to experts on the subject concerned, appointed pursuant to article 18 of the Constitution. The specific modalities that might be followed in this respect could be explored during the informal tripartite consultations on the working methods of the CAS, with a view to giving effect to the ILC resolution on advancing social justice through decent work, which called for the exploration of options to make better use of article 19, paragraphs 5(e) and 6(d).<sup>14</sup>
50. In addition, building on specific suggestions put forward by certain constituents, the Governing Body could consider the inclusion of a standing item in its November session following the discussion of the General Survey by the CAS with a view to enhancing the discussion and follow-up of General Surveys, and particularly to promoting the ratification of standards and their implementation by non-ratifying countries. The item could include an invitation to non-ratifying countries to share their experience, difficulties and efforts, with a view to encouraging ratification and giving recognition to any measures taken. The item could assist in the preparation of the related recurrent discussion and enhance the linkage between the findings of General Surveys and their discussion (including any conclusions drawn by the CAS) with ILO activities and cooperation. For example, this might lead, where appropriate, to the inclusion of the outcome of discussions arising out of General Surveys in the action plan to follow up the conclusions of the recurrent discussion.
51. The outcome of the CAS and Governing Body discussions could inform not only the recurrent discussion, but also the Standards Review Mechanism and ILC agenda-setting processes, and more broadly the preparation and implementation of the ILO’s strategic policy framework.<sup>15</sup> The following figure illustrates how, as a first step, the strengthening of institutional discussions linked to, but also going beyond General Surveys, could enhance the use of article 19 and promote coherence.

<sup>13</sup> [Provisional Record No. 13-1, 105th ILC](#), para. 15.2(b).

<sup>14</sup> See [Defending values, promoting change: Social justice in a global economy](#), Report of the Director-General (Part I), ILC, 81st Session, 1994.

<sup>15</sup> See [GB.331/POL/1](#) on Outcome 2 of the programme and budget concerning the ratification and application of international labour standards.

Possible enhancements for a better use of article 19, paragraphs 5(e) and 6(d)  
(building on General Survey procedures)



52. The meeting may wish to consider this matter.

#### IV. Discussion of cases of serious failure by member States to respect their reporting obligations

53. It should be recalled that governments are invited to supply information on cases of serious failure to respect reporting or other standards-related obligations for stated periods (formerly known as “automatic” cases).<sup>16</sup> These cases are considered in a dedicated sitting of the Committee. Governments that submit the required information before the sitting are not called before the Committee. The discussion of the Committee, including any explanations of difficulties that may have been provided by the governments concerned, and the conclusions adopted by the Committee under each criterion are reflected in its report.
54. During the 2017 CAS discussion of cases of serious failure by member States to respect their reporting obligations, the Employer members noted with concern the information on the number of reports requested, received, and received by 1 September, and also on first reports not received, as well as the general fact that the number of cases of serious failure to report had increased since the previous year.
55. The Employer members considered that reporting failures had to be addressed in a more suitable way. The ILO supervisory system could not function without such reports being submitted regularly. The Committee of Experts and the Office should provide information on the concrete measures taken to assist these countries with their reporting obligations, and

<sup>16</sup> Part V of document D.1 – Work of the Committee – adopted in 2017 (*Provisional Record No. 15-1*, ILC, 2017, Part I, p. 42), reproduced in Annex 2 of this document.

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they asked that this question be placed on the agenda of the informal tripartite consultations on the working methods of the CAS.

- 56.** The Worker members emphasized that the fulfilment of constitutional obligations remained the basis of the ILO supervisory system. Governance of the system was based on the requirement for member States to comply with articles 22 and 35 of the ILO Constitution. Cases of serious failure needed to be examined closely, particularly in relation to ratified Conventions. Thanks to ILO technical assistance, some countries had made significant progress but much remained to be done. This year once again, a significant number of reports had arrived after the deadline of 1 September. It was not only necessary to fulfil reporting obligations, but also to do so within the time limits.
- 57.** The Worker members added that the Office needed to ensure that countries experiencing difficulties benefited from technical assistance aimed to help them fulfil their obligations. The initiative taken by the Office since the 105th Session of the Conference in 2016 to send letters to the member States which had failed to meet constitutional obligations was therefore to be welcomed.
- 58.** The meeting may wish to consider this matter.

## **V. Participation in the informal tripartite consultations**

- 59.** It is recalled that, based on informal arrangements which were put in place when the first informal tripartite consultations on the working methods of the CAS were organized in June 2006, the composition of these meetings was as follows: nine Employer representatives; nine Worker representatives; and nine Government representatives. Meetings may also be attended by observers.
- 60.** During its last meeting, participation in these informal consultations was discussed and it was decided that further consultations among governments were needed.<sup>17</sup>
- 61.** The meeting may wish to further consider this matter.

<sup>17</sup> Brief report of the 5 November 2016 meeting of the informal tripartite Working Group, reproduced in Annex 1.



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## Annex 1

### Informal tripartite consultations on the Working Methods of the Committee on the Application of Standards (5 November 2016)

#### Brief report of the meeting

1. Informal tripartite consultations on the Working Methods of the Conference Committee on the Application of Standards (CAS) were held on 5 November 2016 from 2 p.m. to 4.40 p.m.
2. The meeting was chaired by Mr Sipho Ndebele (Government representative, South Africa). The Employer Vice-Chairperson of the CAS at the 105th Session (2016) of the International Labour Conference, Ms Sonia Regenbogen, and the Worker Vice-Chairperson of the Governing Body, Mr Marc Leemans, spoke on behalf of the Employers' and Workers' groups, respectively. The Government representatives were from the following nine countries: Algeria and Egypt (Africa); Brazil and Canada (Americas); Bahrain, Republic of Korea and Pakistan (Asia and the Pacific); and Austria and Russian Federation (Europe). The meeting was also attended by a number of observers.
3. The meeting had before it a background note prepared by the Office. The agenda of the meeting, which followed the order of the matters set out in the background note, was presented by the Chairperson and was adopted unanimously.

#### Review of the functioning of the CAS (June 2016) and possible further suggestions for improvement

4. **The Director of the International Labour Standards Department** presented the background note and drew the meeting's attention to paragraphs 28–31 on the possibility of extending the use of "patchwork" (that is, where each intervention is reflected only in the corresponding working language – English, French or Spanish) to the adoption of the CAS report, as well as to paragraph 33 on the possibility of pursuing the electronic transmission of amendments.
5. **The Worker spokesperson** indicated that the functioning of the CAS in 2016 had been safeguarded. The CAS had been able to finalize its list of cases, engage in fruitful discussions and adopt conclusions. The Workers' group was quite satisfied with the overall functioning of the CAS in 2016. It was a year that gave the Workers' group trust to invest in the future effective functioning of the CAS.
6. **The Employer spokesperson** echoed the comments made by the Worker spokesperson in saying that 2016 was a successful year for the CAS, due to the preliminary list of cases being adopted one month before the commencement of the CAS, as well as the fruitful discussions held and conclusions adopted for each case. Reference was also made to the dynamic use of the CAS web page, the list of speakers made available on a screen in the meeting room and the use of SharePoint.
7. Speaking on behalf of the group of Latin American and Caribbean countries (GRULAC), a **Government representative of Brazil** echoed the positive remarks made by the

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spokespersons of the Employers' and Workers' groups. He added, however, that GRULAC wanted some clarification on the establishment of the list of cases and methods for choosing a given case, including how geographical balance was taken into account. In general, GRULAC was in favour of technological developments mentioned in the background note.

8. Speaking on behalf of the Asia and Pacific group (ASPAG), a **Government representative of the Republic of Korea** said that improvements should be made to the preliminary list of cases in terms of regional balance. Thirteen countries were selected from the Asia and the Pacific region (Asia-Pacific States and Arab States) out of a total of 40 cases (representing 32.5 per cent), which was ten percentage points higher than for other regions. The speaker asked why the Arab States still appeared as a region, adding that there should only be four regions.
9. A **Government representative of Pakistan** shared the concerns raised by the Government representative of the Republic of Korea. Referring to technological developments, he was of the view that there should be a gradual transition to the electronic transmission of amendments as the only means of submitting amendments.
10. A **Government representative of Canada** indicated that he was pleased with the functioning of the CAS in 2016, in particular with the establishment of the preliminary list of cases one month prior to the commencement of the Conference, the better use of technology and good time management.
11. A **Government representative of Austria** agreed with the improvements made to time management in 2016, adding that having the list of speakers visible on a screen was a positive development. She was also pleased with the preliminary list of cases being made available 30 days before the Conference.
12. A **Government representative of the Russian Federation** echoed the positive remarks made before him concerning the functioning of the CAS in 2016. He was pleased with the work of the CAS and would like to see further improvements in the future. He asked for additional information on how cases were selected and how the social partners aimed to ensure a balance among regions.
13. A **Government representative of Algeria**, also echoing the positive remarks of the previous speakers, was looking forward to further improvements to the working methods of the CAS.
14. **The Chairperson** asked the Office to clarify how the list of cases was established.
15. **The Director of the International Labour Standards Department** referred to the CAS document D.1 which sets out the manner in which the work of the Committee is carried out. Section VI of document D.1 on "Individual cases" provided information on the establishment of the list of cases. The Department Director added that there were indeed five regions: Europe, Americas, Arab States, Africa and Asia and the Pacific. Grouping in four regions were used for the electoral colleges of the Governing Body, but this grouping served a different purpose. She said that the list of cases could be presented differently as the current practice dated from 2012.
16. **The Worker spokesperson** recalled that these types of questions, namely on the establishment of the list of cases, were regularly asked. The criteria used were quite clear and he referred to document D.1. Selecting cases was not an exact science as many factors were taken into account, plus there had to be an agreement following negotiations between the Employers' and Workers' groups. It would not be seen as a positive development if governments became party to the negotiations concerning the establishment of the list of cases.

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- 17. The Employer spokesperson** also referred to document D.1 and agreed with the points raised by the Worker spokesperson and the explanation provided by the Office. Establishing a list of cases was not an exact science, although the Employers' and Workers' groups had worked very hard to maintain a regional balance. The Employers' and Workers' groups would continue in this regard, taking into account the different regions, developed and developing countries, as well as fundamental, governance and technical Conventions.
- 18. A Government representative of Brazil** thanked the social partners for the information provided. Taking into account the double-footnoted cases, GRULAC was of the view that there should be a regional balance with regard to the other cases. Acknowledging that the preliminary and final lists of cases were communicated on time, the speaker asked whether, for the future, a lengthier advance notice of the lists could be given. In this regard, he asked if it would be possible to give more advance notice with respect to the final list. Concerning the list of speakers during the discussion of cases, he proposed to have Government representatives speak after the social partners as closing remarks. This was an idea that could be discussed at a later stage.
- 19. A Government representative of the Republic of Korea** said that, in terms of regional balance, he was pleased with the final list of cases. His previous comment referred to the preliminary list of cases and he asked why ASPAG was divided in two groups. He supported the proposal made by GRULAC with regard to the order of speakers; that is, the final speaker of a given case would be the Government representative.
- 20. The Employer spokesperson** indicated that the Arab States had always been a region separate from Asia and the Pacific in the work of the CAS. Her understanding was that the Governing Body had different groupings but that the CAS, historically, treated the Arab States as a region.
- 21. The Worker spokesperson** was of the view that it would be better to hear the concluding remarks from governments and then have the concluding remarks from the social partners. He added that all governments must be prepared to come to the Conference if they were on the preliminary list of cases. There would not be much difference if the final list was made available one day before. The Employers' and Workers' groups were now giving the final list to the Office secretariat on the Friday before the Conference started to facilitate the work of the CAS. The final list was adopted on the second day of the CAS. He did not see how it would be possible to give earlier advance notice to governments.
- 22. The Chairperson** recalled that governments had expressed their views on geographical balance. Consideration could take into account other cases, which were not double-footnoted cases. This was an issue that could be discussed at the next meeting. With respect to advance notice, he indicated that all 40 member States on the preliminary list of cases should be prepared for the Conference, and that they should not only wait for the final list.
- 23. A Government representative of Brazil** was of the view that there was a difference between being on the preliminary list and the final list. For example, if a decision had to be taken to invite a higher-level government official to attend the CAS.
- 24. The Employer spokesperson** agreed that there was a difference between being on the preliminary and final lists of cases. The Employers' group was aware of the challenges mentioned, such as planning to have a higher-level government official attend the CAS. The Employers' and Workers' groups were more efficient now because there was certainty that the final list would be adopted on the second day of the CAS. In the past, the final list of cases was known later. The first level of notice, the preliminary list, gave governments time to prepare for the Conference. Moreover, the order of cases, following the double-footnoted cases, took the French alphabetical order. This in fact helped governments know when their case would be discussed. In 2016, the CAS had been on schedule and therefore governments

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had known when their case was to be discussed. Another improvement in 2016 was that the reading of conclusions was done according to schedule. The meeting should be cognizant of negotiations between Employers' and Workers' groups to come up with the final list.

25. **A Government representative of Austria** said that she was familiar with this discussion as it had been held a number of times in the past. For governments, it was not the perfect scenario to have the final list available only on the second day of the CAS. However, she understood the views shared by the Employers' and Workers' spokespersons. She conveyed her appreciation for the work done by the social partners and the improvements made in order to have the preliminary and final lists shared on time.
26. **The Chairperson** asked whether there could be a concept paper prepared by the Government representatives for the next meeting. He recalled that major improvements had been made with respect to the preliminary and final lists of cases. Government representatives indicated that they would prefer to have more time and therefore more advance notice to prepare for the CAS discussions.
27. **The Worker spokesperson** recalled that 24 out of the 40 cases on the preliminary list would in fact be discussed. It was not possible for the Employers' and Workers' groups to work even faster in the context of a shorter two-week Conference. The final list of cases would be shared as soon as possible with governments, on the second day of the CAS. In the past, less notice was given and the social partners would try to avoid such situations.
28. **The Chairperson** said that Government representatives raised a concern that the meeting should try to look into at a later stage. This matter could be further discussed at the next meeting.
29. **A Government representative of Austria** was of the view that governments prepared for their cases. She added that if governments wanted to send a high-ranking official, there needed to be certainty that the case would be discussed. She asked whether it would be possible to inform, more in advance, Government representatives who had a longer trip to Geneva.
30. **A Government representative of Canada** recalled that he had been participating in the work of the CAS since 2007 and had seen improvements in the last few years. The meeting should recognize the progress made to date, such as having the preliminary list of cases 30 days prior to commencement of the CAS. He added that the proposed government concept paper would not work well as not all governments shared the same views.
31. **The Employer spokesperson** referred to document D.0 and the adoption of the list of cases on the first Tuesday. Governments could organize travel as from Tuesday morning until Thursday, as Wednesday was scheduled for double-footnoted cases. The shorter two-week Conference in fact helped government officials block out less dates from their calendars. A government concept paper would not be the best option and necessary at this time, taking into account the Office's limited time and resources.
32. **The Worker spokesperson** shared the views expressed by the Employer spokesperson.
33. **A Government representative of Brazil** indicated that he would like this point to be added on the agenda of the next meeting. Referring to the comments made by the Government representative of Austria, he added that an option could be that cases involving countries closest to Geneva could be assessed in the earlier days of the CAS. More ideas could be discussed at the next meeting.

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**(a) *The possibility of including cases of progress in the list of cases***

- 34. The Employer spokesperson** indicated that the Employers' group had highlighted in the meetings of the CAS that cases of progress should be a priority and should be included in the final list of 24 cases.
- 35. The Worker spokesperson** was in favour of discussing cases of progress, but recalled that all delegates travelled to the Conference to discuss the most serious cases. The number of cases had been reduced from 25 to 24 cases. Cases of progress could be added to the final list but should not replace one of the 24 cases. He was of the view that it would be difficult taking into account the shorter two-week Conference. The Workers' group was not against discussing cases of progress but it should be in addition to the 24 cases.
- 36. A Government representative of Austria** said that discussing cases of progress was welcomed but it would be difficult taking into account the shorter Conference. She added that it may be possible if the discussion of a case of progress was shorter.
- 37. The Employer spokesperson** said that this discussion could be shelved. The Employers' group felt bound by the agreement between the social partners to discuss only 24 cases. Cases of progress could be included in the list of 24 cases. The Employers' group was not in a position, at this point, to agree to a list of 25 cases.
- 38. The Chairperson**, taking into account the views shared, said that this discussion should be shelved and discussed at a later date.

**(b) *Evaluation of the impact of the shorter Conference on the work of the CAS; and***  
**(c) *any possible improvements to time management taking into account the experiences of the CAS in 2016***

- 39. The Worker spokesperson**, referring to the fact that speaking time limits had in some cases been reduced from five to three minutes for individual interventions, said that there was a discrepancy between groups for allotted speaking times. It was suggested that the reduction of speaking time limits could apply by taking into account the number of speakers of a particular group. For instance, if a given group only had four or five speakers mentioned on the list of speakers with respect to a case being discussed, those speakers would not see their speaking time reduced. Speaking time would therefore only be reduced for the following speakers of that same group. Regional groups took the floor during a discussion, but also, from time to time, a number of individual governments from the same regional group took the floor again.
- 40. The Employer spokesperson** recalled that, even with long working hours, the 2016 CAS was a success due to time management. The Chairperson, in consultation with the Officers of the Committee, was able to decide when to reduce speaking time limits and when to close the list of speakers, and this practice should continue. Reference was also made to the list of speakers made visible on a screen, which was also welcomed. In response to the suggestion of the Workers' group, there should be further reflection on this point to see whether the number of speakers in a particular group should be taken into account to decide on the reduction of speaking time limits for a given group.
- 41. A Government representative of Brazil** said that he was pleased with the time management in 2016 and further improvements should be looked at. He added that limiting the interventions from Government representatives should not be an acceptable practice.

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42. **A Government representative of the Republic of Korea** agreed with the good use of time management in 2016 and supported the remarks made by the Government representative of Brazil, adding that governments should be free to take the floor during a discussion.
43. **A Government representative of Canada** said that time was well managed in 2016. He added that, when a decision was taken to reduce the speaking time, it should be announced as soon as possible in order for speakers to prepare accordingly.
44. **A Government representative of Austria** agreed with the early notice of reduced speaking time, and also echoed the positive remarks of good time management in 2016. She did not agree with limiting government interventions during the discussion of cases. The proposal of the Workers' group would be difficult to implement and the CAS needed simple rules, such as the current ones.
45. **A Government representative of Pakistan**, referring to paragraph 24 of the background note, said that it was not necessary to reduce government interventions during the discussion of cases. This issue could be discussed at a later stage.
46. **The Chairperson** said that this question should be looked into at a later stage. There was room for improvement and time was needed to look into this question further.
- (d) ***The possibility of pursuing the practice of adopting draft minutes in a "patchwork" version, as well as possibly extending the practice to the adoption of the CAS report; and (e) the possibility of pursuing the electronic transmission of amendments and, in the future, as the only means to submit amendments***
47. **The Employer spokesperson** supported the adoption of a "patchwork" version for the individual cases and CAS report, as well as the electronic transmission of amendments.
48. **The Worker spokesperson** said that the CAS should be careful not to exclude some Members by moving too quickly to only accepting electronic means of transmission of amendments.
49. **A Government representative of Austria** indicated that delegates that did not have access to computers should also be able to submit amendments. She added that a "patchwork" version of the CAS report could be adopted, but there should be a deadline to produce and publish the translated version of the CAS report.
50. **The Chairperson** said that there was support for the electronic transmission of amendments. He added that there should also be other means available to support delegates that did not have access to computers during the CAS or lacked sufficient knowledge of information technology.
51. **The Director of the International Labour Standards Department** said that the deadline to produce the translated versions of the CAS report would be ten days following its adoption. She clarified that the conclusions would continue to appear in the report in the three working languages. With respect to the electronic transmission of amendments, the aim would be to go fully electronic in a transitional manner. Amendments would continue to be submitted both electronically and on paper in 2017.

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## The preparation, adoption and follow-up of conclusions

52. **The Director of the International Labour Standards Department** presented a document to the meeting, a summary table that was produced in Annex 3 of the Background Note. The summary table included information on whether or not, following requests made by the CAS in its conclusions, reports had in fact been submitted to the Committee of Experts on the Application of Conventions and Recommendations, ILO missions had been undertaken and technical assistance had been provided.
53. **The Worker spokesperson** asked how the document would be made available and whether it would be made available online.
54. **The Employer spokesperson** indicated that 1 April 2017 would be a good date to have the document available as it was before the establishment of the preliminary list of cases. The document should be updated in May, in advance of the final list of cases, and updated once again before the commencement of the work of the CAS. It was important to have a document with up-to-date information in an easy-to-use format.
55. **A Government representative of Canada** agreed with the idea, adding that the document could also be part of the D. documents of the CAS.
56. **The Director of the International Labour Standards Department** said that the document would be prepared by the secretariat and made available on the dedicated web page of the CAS as of 1 April 2017. It would be regularly updated prior to the commencement of the Conference.

## The discussion of the General Survey

57. **The Employer spokesperson** agreed with maintaining the current method of discussing the General Survey by the CAS; that is, one year in advance of the recurrent item discussion.
58. **The Worker spokesperson** also agreed with maintaining the current format of discussing the General Survey.

## The issue of the participation in these informal tripartite consultations

59. **A Government representative of Brazil** said that GRULAC believed that governments would provide a better contribution to the working methods of the CAS if more governments were able to participate in these consultations. Changing the composition was proposed as it would be beneficial to have broader participation from governments.
60. Speaking on behalf of ASPAG, **a Government representative of the Republic of Korea**, supported the position of GRULAC.
61. **The Worker spokesperson** recalled that the status of this meeting was informal consultations. It was not a committee and it was not an expert meeting. He added that all governments had the possibility to make their views known during the closing statements of the CAS. Informal consultations were more effective with less participants. The Workers' group was therefore not in favour of a larger group of people participating in these informal consultations.

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- 62. The Employer spokesperson** agreed with the current composition of the meeting, including with the possibility of observers.
- 63. The Chairperson** indicated that the position of the social partners was clear on this matter. He called upon the Government representatives to revisit their position and to look into how to take this process forward.
- 64. A Government representative of Brazil** was of the view that it was in the interest of the Organization to change the composition of the meeting. In order to have more participation from governments in the CAS, there should be more governments present in these consultations on the work of the CAS, governments with the right to speak.
- 65. A Government representative of Pakistan** indicated that a large number of observers were present on a Saturday afternoon which was an indication of the interest in these discussions. The discussion would have benefited by having observers with the right to speak.
- 66. A Worker spokesperson** recalled that the ILO was a tripartite organization and ownership of processes by the social partners was also important. Ownership by all three groups was important.
- 67. The Chairperson** said that further discussions among governments were needed. Participation in these informal consultations was an issue that would require further examination at the next meeting.

### **Any other matters**

- 68. Speaking on behalf of IMEC**, a Government representative of Austria, thought it was bad timing to have the adoption of the CAS report coincide with the World of Work Summit. This situation should be avoided in the future.
- 69. The Chairperson** thanked all participants and adjourned the meeting.

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## Annex 2

INTERNATIONAL LABOUR CONFERENCE

C.App./D.1

106th Session, Geneva, June 2017

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**Committee on the Application of Standards**

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## Work of the Committee

### I. Introduction

This document (D.1) sets out the manner in which the work of the Committee on the Application of Standards (CAS) is carried out. It is submitted to the Committee for adoption when it begins its work at each session of the Conference.<sup>1</sup> The document reflects the results of the discussions and informal tripartite consultations that have taken place, since 2002, on the working methods of the Committee, including on the following issues: the elaboration of the list of individual cases to be discussed by the Committee, the preparation and adoption of the conclusions relating to these individual cases, time management and respect for parliamentary rules of decorum.

This document takes into account the results of the last informal tripartite consultations on the working methods of the CAS held in March and November 2016.

### II. Terms of reference and composition of the Committee, voting procedure and report to the Conference

Under its terms of reference as defined in article 7, paragraph 1, of the Standing Orders of the Conference, the Committee is called upon to consider:

- (a) the measures taken by Members to give effect to the provisions of Conventions to which they are parties and the information furnished by Members concerning the results of inspections;
- (b) the information and reports concerning Conventions and Recommendations communicated by Members in accordance with article 19 of the Constitution;
- (c) the measures taken by Members in accordance with article 35 of the Constitution.

In accordance with article 7, paragraph 2, of the Standing Orders of the Conference, the Committee submits a report to the Conference. Since 2007, in response to the wishes expressed by ILO constituents, the report of the Committee has been published both in the

<sup>1</sup> Since 2010, it is appended to the General Report of the Committee.

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*Record of Proceedings* of the Conference and as a separate publication, to improve the visibility of the Committee's work.

Questions related to the composition of the Committee, the right to participate in its work and the voting procedure are regulated by section H of Part II of the Standing Orders of the Conference.

Each year, the Committee elects its Officers: its Chairperson and Vice-Chairpersons as well as its Reporter.

### **III. Working documents**

#### **A. Report of the Committee of Experts**

The basic working document of the Committee is the report of the Committee of Experts on the Application of Conventions and Recommendations (Report III (Parts 1A and B)), printed in two volumes.

Report III (Part 1A) contains, in Part One, the General Report of the Committee of Experts, and in Part Two, the observations of the Committee of Experts concerning the sending of reports, the application of ratified Conventions and the obligation to submit the Conventions and Recommendations to the competent authorities in member States. At the beginning of the report there is an index of comments by Convention and by country. In addition to the observations contained in its report, the Committee of Experts has, as in previous years, made direct requests which are communicated to governments by the Office on the Committee's behalf.<sup>2</sup>

Report III (Part 1B) contains the General Survey prepared by the Committee of Experts on a group of Conventions and Recommendations decided upon by the Governing Body.

#### **B. Summaries of reports**

At its 267th Session (November 1996), the Governing Body approved new measures for rationalization and simplification of the arrangements for the presentation by the Director-General to the Conference of summaries of reports submitted by governments under articles 19, 22 and 35 of the Constitution.<sup>3</sup> Requests for consultation or copies of reports may be addressed to the secretariat of the CAS.

#### **C. Other information**

The secretariat prepares documents (which are referred to, and referenced, as "D documents") which are made available<sup>4</sup> during the course of the work of the Committee to provide the following information:

<sup>2</sup> See para. 39 of the General Report of the Committee of Experts. A list of direct requests can be found in Appendix VII of Report III (Part 1A).

<sup>3</sup> See report of the Committee of Experts, Report III (Part 1A), Appendices I, II, IV, V and VI; and Report III (Part 1B), Appendix III.

<sup>4</sup> D documents will be made available online on the [Committee's dedicated web page](#) (hard copies will be made available to delegates upon request).

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- (i) reports and information which have reached the International Labour Office since the last meeting of the Committee of Experts; based on this information, the list of governments which are invited to supply information to the Conference Committee due to serious failure to respect their reporting and other standards-related obligations is updated;<sup>5</sup>
  - (ii) written information supplied by governments to the Conference Committee in reply to the observations made by the Committee of Experts, when these governments are on the list of individual cases adopted by the Conference Committee.<sup>6</sup>

#### **IV. General discussion**

In accordance with its usual practice, the Committee begins its work with the consideration of its working methods on the basis of this document. The Committee then holds a discussion on general aspects of the application of Conventions and Recommendations and the discharge by member States of standards-related obligations under the ILO Constitution, which is primarily based on the General Report of the Committee of Experts.

It also holds a discussion on the General Survey entitled *Working together to promote a safe and healthy working environment*. The General Survey concerns the occupational safety and health instruments concerning the promotional framework, construction, mines and agriculture, more specifically, the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) and Recommendation (No. 197), 2006; the Safety and Health in Construction Convention, 1988 (No. 167) and Recommendation (No. 175), 1988; the Safety and Health in Mines Convention, 1995 (No. 176) and Recommendation (No. 183), 1995; and the Safety and Health in Agriculture Convention, 2001 (No. 184) and Recommendation (No. 192), 2001.<sup>7</sup>

#### **V. Cases of serious failure by member States to respect their reporting and other standards-related obligations<sup>8</sup>**

Governments are invited to supply information on cases of serious failure to respect reporting or other standards-related obligations for stated periods. These cases are considered in a dedicated sitting of the Committee. Governments that submit the required information before the sitting will not be called before the Committee. The discussion of the Committee, including any explanations of difficulties that may have been provided by the

<sup>5</sup> See below Part V.

<sup>6</sup> See below Part VI (supply of information).

<sup>7</sup> It should be recalled that the subjects of General Surveys have been aligned with the strategic objectives that are examined in the context of the recurrent discussions under the follow-up to the ILO Declaration on Social Justice for a Fair Globalization (2008). The discussion of General Surveys by the Committee will continue to be held one year in advance of the recurrent discussion under the new five-year cycle of recurrent discussions adopted by the Governing Body in November 2016. The full synchronization of General Surveys and their discussion by the Committee will be re-established under the new cycle in the context of the recurrent discussion on social protection (social security) to be held by the Conference in 2020 (see GB.328/INS/5/2 and GB.328/PV (paras 25 and 102)).

<sup>8</sup> Formerly known as “automatic” cases (see *Provisional Record* No. 22, International Labour Conference, 93rd Session, June 2005, para. 69).

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governments concerned, and the conclusions adopted by the Committee under each criterion are reflected in its report.

The Committee identifies the cases on the basis of criteria which are as follows: <sup>9</sup>

- None of the reports on ratified Conventions has been supplied during the past two years or more.
- First reports on ratified Conventions have not been supplied for at least two years.
- None of the reports on unratified Conventions and Recommendations requested under article 19, paragraphs 5, 6 and 7, of the Constitution has been supplied during the past five years.
- No indication is available on whether steps have been taken to submit the instruments adopted during the last seven sessions of the Conference to the competent authorities, in accordance with article 19 of the Constitution. <sup>10</sup>
- No information has been received as regards all or most of the observations and direct requests of the Committee of Experts to which a reply was requested for the period under consideration.
- The government has failed during the past three years to indicate the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of reports and information supplied to the Office under articles 19 and 22 have been communicated.

## VI. Individual cases

The Committee considers cases relating to the application of ratified Conventions. These cases are selected on the basis of the observations published in the report of the Committee of Experts.

*Preliminary list.* Since 2006, an early communication to governments of a preliminary list of individual cases for possible discussion by the Committee concerning the application of ratified Conventions has been instituted. Since 2015, the preliminary list of cases has been made available 30 days before the opening of the International Labour Conference. The preliminary list is a response to the requests from governments for early notification, so that they may better prepare themselves for a possible intervention before the Committee. It may not in any way be considered definitive, as the adoption of a final list is a function that only the Committee itself can assume.

*Establishment of the list of cases.* The list of individual cases is submitted to the Committee for adoption, after the Employers' and Workers' groups have met to discuss and adopt it. The final list should be adopted at the beginning of the Committee's work, ideally no later than its second sitting. The criteria for the selection of cases, as revised in 2015, should reflect the following elements:

<sup>9</sup> These criteria were last examined by the Committee in 1980 (see *Provisional Record* No. 37, International Labour Conference, 66th Session, 1980, para. 30).

<sup>10</sup> This time frame begins at the 95th Session (2006) and concludes at the 104th Session (2015) of the International Labour Conference, bearing in mind that the Conference did not adopt any Conventions or Recommendations during the 97th (2008), 98th (2009) and 102nd (2013) Sessions.

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- the nature of the comments of the Committee of Experts, in particular the existence of a footnote;<sup>11</sup>
  - the quality and scope of responses provided by the government or the absence of a response on its part;
  - the seriousness and persistence of shortcomings in the application of the Convention;
  - the urgency of a specific situation;
  - comments received by employers' and workers' organizations;
  - the nature of a specific situation (if it raises a hitherto undiscussed question, or if the case presents an interesting approach to solving questions of application);
  - the discussions and conclusions of the Conference Committee of previous sessions and, in particular, the existence of a special paragraph;
  - the likelihood that discussing the case would have a tangible impact;
  - balance between fundamental, governance and technical Conventions;
  - geographical balance; and
  - balance between developed and developing countries.

There is also the possibility of examining one case of progress as was done in 2006, 2007, 2008 and 2013.<sup>12</sup>

Since 2007, it has been the practice to follow the adoption of the list of individual cases with an informal information session for governments, hosted by the Employer and Worker Vice-Chairpersons, to explain the criteria used for the selection of individual cases.

*Automatic registration.* Since 2010, cases included in the final list have been automatically registered and scheduled by the Office, on the basis of a rotating alphabetical system, following the French alphabetical order; the "A+5" model has been chosen to ensure a genuine rotation of countries on the list. This year, the registration will begin with countries with the letter "J". Cases will be divided into two groups: the first group of countries to be registered following the above alphabetical order will consist of those cases in which the Committee of Experts requested governments to submit full particulars to the Conference ("double-footnoted cases").<sup>13</sup> Since 2012, the Committee begins its discussion of individual cases with these cases. The other cases on the final list are then registered by the Office also following the abovementioned alphabetical order.

Information on the agenda of the Committee and the date on which cases may be heard is available:

- (a) through the *Daily Bulletin* and the Committee's dedicated web page;

<sup>11</sup> See paras 43–50 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for footnotes are also reproduced in Appendix I.

<sup>12</sup> See paras 51–57 of the General Report of the Committee of Experts. The criteria developed by the Committee of Experts for identifying cases of progress are also reproduced in Appendix II.

<sup>13</sup> See para. 48 of the General Report of the Committee of Experts.

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- (b) by means of a D document containing the list of individual cases and the working schedule for the examination of these cases, which is made available to the Committee as soon as possible after the adoption of the list of cases.<sup>14</sup>

*Supply of information.* Prior to their oral intervention before the Conference Committee, governments may submit written information that will be summarized by the Office and made available to the Committee.<sup>15</sup> These written replies are to be provided to the Office at least **two days** before the discussion of the case. They serve to complement the oral reply that will be provided by the government. They may not duplicate the oral reply nor any other information already provided by the government. The total number of pages is not to exceed **five pages**.

*Adoption of conclusions.* The conclusions regarding individual cases are proposed by the Chairperson of the Committee, who should have sufficient time to hold consultations with the Reporter and the Vice-Chairpersons. The conclusions should take due account of the elements raised in the discussion and information provided by the government in writing. The conclusions should be short, clear and specify the action expected of governments. They may also include reference to the technical assistance to be provided by the Office. The conclusions should reflect consensus recommendations. Divergent views can be reflected in the CAS record of proceedings. Conclusions on the cases discussed will be adopted at dedicated sittings. The governments concerned will be informed of the adoption of conclusions by the secretariat including through the *Daily Bulletin* and the web page of the Committee.

As per the Committee's decision in 1980,<sup>16</sup> Part One of its report will contain a section entitled "Application of ratified Conventions", in which the Committee draws the attention of the Conference to: (i) cases of progress, where governments have introduced changes in their law and practice in order to eliminate divergences previously discussed by the Committee; (ii) certain special cases, which are mentioned in special paragraphs of the report; and (iii) cases of continued failure over several years to eliminate serious deficiencies in the application of ratified Conventions which it had previously discussed.

## VII. Participation in the work of the Committee

As regards failure by a government to take part in the discussion concerning its country, despite repeated invitations by the Committee, the following measures will be applied, in conformity with the decision taken by the Committee at the 73rd Session of the Conference (1987), as amended at the 97th Session of the Conference (2008),<sup>17</sup> and mention will be made in the relevant part of the Committee's report:

- In accordance with the usual practice, after having established the list of cases regarding which Government delegates might be invited to supply information to the Committee, the Committee shall invite the governments of the countries concerned in writing, and the *Daily Bulletin* shall regularly mention these countries.
- Three days before the end of the discussion of individual cases, the Chairperson of the Committee shall request the Clerk of the Conference to announce every day the names

<sup>14</sup> Since 2010, this document is appended to the General Report of the Committee.

<sup>15</sup> See above Part III(C) (ii).

<sup>16</sup> See footnote 9 above.

<sup>17</sup> See *Provisional Record* No. 24, International Labour Conference, 73rd Session, 1987, para. 33; and *Provisional Record* No. 19, International Labour Conference, 97th Session, 2008, para. 174.

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of the countries whose representatives have not yet responded to the Committee's invitation, urging them to do so as soon as possible.

- On the last day of the discussion of individual cases, the Committee shall deal with the cases in which governments have not responded to the invitation. Given the importance of the Committee's mandate, assigned to it in 1926, to provide a tripartite forum for dialogue on outstanding issues relating to the application of ratified international labour Conventions, a refusal by a government to participate in the work of the Committee is a significant obstacle to the attainment of the core objectives of the International Labour Organization. For this reason, the Committee may discuss the substance of the cases concerning governments which are registered and present at the Conference, but which have chosen not to be present before the Committee. The debate which ensues in such cases will be reflected in the appropriate part of the report, concerning both individual cases and participation in the work of the Committee. In the case of governments that are not present at the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised.<sup>18</sup> In both situations, a particular emphasis will be put on steps to be taken to resume the dialogue.

## VIII. Minutes of the sittings

No minutes are published for the general discussion and the discussion of the General Survey. Minutes of sittings at which governments are invited to respond to the comments of the Committee of Experts will be produced by the secretariat. Each intervention will be reflected only in the corresponding working language – English, French or Spanish – and the draft minutes will be made available online on the Committee's dedicated web page (hard copies will be made available to delegates upon request).<sup>19</sup> It is the Committee's practice to accept amendments to the draft minutes of previous sittings prior to their approval by the Committee. The time available to delegates to submit amendments to the draft minutes will be clearly indicated by the Chairperson when they are made available to the Committee. The amendments should be clearly highlighted and submitted either electronically or in hard copy. Please refer to Appendix III or contact the secretariat in relation to the procedure for amendments to draft minutes and their electronic submission. In order to avoid delays in the preparation of the Committee's report, no amendments may be accepted once the draft minutes have been approved. The minutes are a summary of the discussions and are not intended to be a verbatim record. Speakers are therefore requested to restrict amendments to the elimination of errors in the report of their own statements, and not to ask to insert long additional passages.

This year, the second part of the report of the Committee which reflects the discussions of cases in which governments are invited to respond to the comments of the Committee of Experts will be submitted for adoption to the plenary session of the Conference in a single

<sup>18</sup> In the case of a government which is not accredited or registered to the Conference, the Committee will not discuss the substance of the case, but will draw attention in its report to the importance of the questions raised. It was considered that no country should use inclusion on the preliminary list of individual cases as a reason for failing to ensure that it was accredited to the Conference. If a country on the preliminary list registered after the final list was approved, it should be asked to provide explanations (see *Provisional Record* No. 18, International Labour Conference, 100th Session, 2011, Part I/54).

<sup>19</sup> These new modalities result from the informal tripartite consultations of March 2016. Delegates who will be intervening in a language other than English, French or Spanish will be able to indicate to the Secretariat in which of these three working languages their intervention should be reflected in the draft minutes.

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document reflecting the working language – English, French or Spanish – in which statements were delivered by the member of the Committee. Only the first – general – part of the report and the conclusions reached after the discussion of individual cases will be translated at that stage in all three languages for adoption.<sup>20</sup> The fully translated versions of the report will be made available online ten days following its adoption.

## **IX. Time management**

- Every effort will be made so that sessions start on time and the schedule is respected.
- Maximum speaking time during the examination of individual cases will be as follows:
  - fifteen minutes for the government whose case is being discussed, as well as the spokespersons of the Workers’ and the Employers’ groups;
  - ten minutes for the Employer and Worker members, respectively, from the country concerned to be divided between the different speakers of each group;
  - ten minutes for Government groups;
  - five minutes for the other members;
  - concluding remarks are limited to ten minutes for the government whose case is being discussed, as well as spokespersons of the Workers’ and the Employers’ groups.
- Maximum speaking time will also apply to the discussion of the General Survey, as follows:<sup>21</sup>
  - fifteen minutes for the spokespersons of the Workers’ and the Employers’ groups;
  - ten minutes for Government groups;
  - five minutes for the other members;
  - concluding remarks are limited to ten minutes for spokespersons of the Workers’ and the Employers’ groups.
- However, the Chairperson, in consultation with the other Officers of the Committee, could decide on reduced time limits where the situation of a case would warrant it, for instance, where there was a very long list of speakers.
- These time limits will be announced by the Chairperson at the beginning of each sitting and will be strictly enforced.
- During interventions, a screen located behind the Chairperson and visible by all speakers will indicate the remaining time available to speakers. Once the maximum speaking time has been reached, the speaker will be interrupted.

<sup>20</sup> These new modalities result from the informal tripartite consultations of November 2016.

<sup>21</sup> These new modalities result from the informal tripartite consultations of March 2016.

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- The list of speakers will be visible on screens in the room. Early registration on that list of delegates intending to take the floor is encouraged.<sup>22</sup>
  - In view of the above limits on speaking time, governments whose case is to be discussed are invited to complete the information provided, where appropriate, by a written document, not longer than five pages, to be submitted to the Office at least two days before the discussion of the case.<sup>23</sup>

## **X. Respect of rules of decorum and role of the Chairperson**

All delegates have an obligation to the Conference to abide by parliamentary language and by the generally accepted procedure. Interventions should be relevant to the subject under discussion and should avoid references to extraneous matters.

It is the role and task of the Chairperson to maintain order and to ensure that the Committee does not deviate from its fundamental purpose to provide an international tripartite forum for full and frank debate within the boundaries of respect and decorum essential to making effective progress towards the aims and objectives of the International Labour Organization.

<sup>22</sup> These new arrangements result from the informal tripartite consultations of March 2016.

<sup>23</sup> See Part VI above.

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## Appendix I

### Criteria developed by the Committee of Experts for footnotes

#### *Excerpts of the General Report of the Committee of Experts (106 III(1A))*

43. As in the past, the Committee has indicated by special notes (traditionally known as “footnotes”) at the end of its comments the cases in which, because of the nature of the problems encountered in the application of the Conventions concerned, it has seemed appropriate to ask the government to supply a report earlier than would otherwise have been the case and, in some instances, to supply full particulars to the Conference at its next session in June 2017.

44. In order to identify cases for which it inserts special notes, the Committee uses the basic criteria described below, while taking into account the following general considerations. First, the criteria are indicative. In exercising its discretion in the application of the criteria, the Committee may also have regard to the specific circumstances of the country and the length of the reporting cycle. Second, the criteria are applicable to cases in which an earlier report is requested, often referred to as a “single footnote”, as well as to cases in which the government is requested to provide detailed information to the Conference, often referred to as a “double footnote”. The difference between these two categories is one of degree. Third, a serious case otherwise justifying a special note to provide full particulars to the Conference (double footnote) might only be given a special note to provide an early report (single footnote) when there has been a recent discussion of the case in the Conference Committee. Finally, the Committee wishes to point out that it exercises restraint in its recourse to “double footnotes” in deference to the Conference Committee’s decisions as to the cases it wishes to discuss.

45. The criteria to which the Committee has regard are the following:

- the seriousness of the problem; in this respect, the Committee emphasizes that an important consideration is the necessity to view the problem in the context of a particular Convention and to take into account matters involving fundamental rights, workers’ health, safety and well-being, as well as any adverse impact, including at the international level, on workers and other categories of protected persons;
- the persistence of the problem;
- the urgency of the situation; the evaluation of such urgency is necessarily case specific, according to standard human rights criteria, such as life threatening situations or problems where irreversible harm is foreseeable; and
- the quality and scope of the government’s response in its reports or the absence of response to the issues raised by the Committee, including cases of clear and repeated refusal on the part of a State to comply with its obligations.

46. In addition, the Committee wishes to emphasize that its decision not to double footnote a case which it has previously drawn to the attention of the Conference Committee in no way implies that it has considered progress to have been made therein.

47. At its 76th Session (November–December 2005), the Committee decided that the identification of cases in respect of which a government is requested to provide detailed information to the Conference would be a two-stage process: first, the expert initially responsible for a particular group of Conventions recommends to the Committee the insertion of special notes; second, in light of all the recommendations made, the Committee will, after discussion, take a final, collegial decision once it has reviewed the application of all the Conventions.

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## Appendix II

### Criteria developed by the Committee of Experts for identifying cases of progress

#### *Excerpts of the General Report of the Committee of Experts (106 III(1A))*

51. Following its examination of the reports supplied by governments, and in accordance with its standard practice, the Committee refers in its comments to cases in which it expresses its *satisfaction* or *interest* at the progress achieved in the application of the respective Conventions.

52. At its 80th and 82nd Sessions (2009 and 2011), the Committee made the following clarifications on the general approach developed over the years for the identification of cases of progress:

- (1) The expression by the Committee of interest or satisfaction does not mean that it considers that the country in question is in general conformity with the Convention, and in the same comment **the Committee may express its satisfaction or interest at a specific issue while also expressing regret concerning other important matters** which, in its view, have not been addressed in a satisfactory manner.
- (2) The Committee wishes to emphasize that **an indication of progress is limited to a specific issue related to the application of the Convention and the nature of the measures adopted by the government concerned.**
- (3) The Committee exercises its discretion in noting progress, taking into account the particular nature of the Convention and the specific circumstances of the country.
- (4) The expression of progress can refer to different kinds of measures relating to national legislation, policy or practice.
- (5) If the satisfaction relates to the adoption of legislation, the Committee may also consider appropriate follow-up measures for its practical application.
- (6) In identifying cases of progress, the Committee takes into account both the information provided by governments in their reports and the comments of employers' and workers' organizations.

53. Since first identifying cases of satisfaction in its report in 1964, the Committee has continued to follow the same general criteria. The Committee expresses *satisfaction* in cases in which, **following comments it has made on a specific issue, governments have taken measures through either the adoption of new legislation, an amendment to the existing legislation or a significant change in the national policy or practice, thus achieving fuller compliance with their obligations under the respective Conventions.** In expressing its satisfaction, the Committee indicates to governments and the social partners that it considers the specific matter resolved. The reason for identifying cases of satisfaction is twofold:

- to place on record the Committee's appreciation of the positive action taken by governments in response to its comments; and
- to provide an example to other governments and social partners which have to address similar issues.

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56. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.<sup>1</sup> In general, cases of *interest* cover **measures that are sufficiently advanced to justify the expectation that further progress would be achieved in the future and regarding which the Committee would want to continue its dialogue with the government and the social partners.** The Committee's practice has developed to such an extent that cases in which it expresses interest may encompass a variety of measures. The paramount consideration is that the

<sup>1</sup> See para. 122 of the Report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

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measures contribute to the overall achievement of the objectives of a particular Convention. This may include:

- draft legislation that is before parliament, or other proposed legislative changes forwarded or available to the Committee;
- consultations within the government and with the social partners;
- new policies;
- the development and implementation of activities within the framework of a technical cooperation project or following technical assistance or advice from the Office;
- judicial decisions, according to the level of the court, the subject matter and the force of such decisions in a particular legal system, would normally be considered as cases of interest unless there is a compelling reason to note a particular judicial decision as a case of satisfaction; or
- the Committee may also note as cases of interest the progress made by a state, province or territory in the framework of a federal system.

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## Appendix III

### Procedure for amendments to draft minutes

With reference to **Part VIII of document C.App./D.1**, this note provides information on the new procedure for amendments to draft minutes (PVs), taking into account the fact that, since 2016, each intervention is reflected in the draft PVs only in the corresponding working language <sup>1</sup> – English, French or Spanish – and the draft PVs will be made available online on the Committee’s dedicated web page. <sup>2</sup>

It is recalled that the Committee’s practice is to accept amendments to the draft PVs of previous sittings **prior to their approval by the Committee**. The time available to delegates to submit amendments to the draft PVs will be clearly indicated by the Chairperson when the draft PVs are made available to the Committee.

Delegates are encouraged to submit their amendments to the secretariat **electronically** in “track changes” via the following email address: [AMEND-PVCAS@ilo.org](mailto:AMEND-PVCAS@ilo.org). In order to make amendments directly in track changes, delegates are invited to request the “Word version” of the minute by sending an email to the address above.

Amendments will be received **only if they are sent from the email address** which will have been provided by the delegate concerned when requesting the floor. The secretariat will acknowledge receipt of the amendment and may contact the delegate concerned when the request does not fulfil the requirements contained in document C.App./D.1, which read as follows: *Minutes are a **summary of the discussions** and are not intended to be a verbatim record. Delegates are requested to **restrict amendments to the elimination of errors in the report of their own statements, and not to ask to insert long additional passages**.* Delegates should specify the draft PV concerned and make clearly visible the changes they wish to make.

Delegates who wish to submit hard copies of their amendments will still be able to do so, once a day, from 1.30 p.m. to 2.30 p.m. in Office No. 6-25. The secretariat will verify that the request fulfils the requirements reproduced above. Delegates will therefore need to show their identification badge.

<sup>1</sup> When filling in a request for the floor, delegates will be requested to indicate in which working language (English, French or Spanish) their intervention should be reflected in the draft PVs, if this intervention is not in one of these three languages. They will also be requested to provide an email address and a phone number.

<sup>2</sup> Hard copies will be made available to delegates upon request.